

Senate Study Bill 1324

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON KREIMAN)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to electronically recording an interrogation of a
2 person suspected of a crime.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 2813SC 82
5 jm/je/5

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1 1 Section 1. Section 232.45, subsection 11, Code 2007, is
1 2 amended by adding the following new unnumbered paragraph after
1 3 unnumbered paragraph 2:
1 4 NEW UNNUMBERED PARAGRAPH. Statements made by a juvenile
1 5 who is the suspect in a criminal investigation, even though
1 6 otherwise deemed admissible pursuant to this subsection, are
1 7 only inadmissible if they comply with section 232.47A.
1 8 Sec. 2. Section 232.47, subsection 6, Code 2007, is
1 9 amended by adding the following new unnumbered paragraph:
1 10 NEW UNNUMBERED PARAGRAPH. Statements made by a juvenile
1 11 who is the suspect in a criminal investigation, even though
1 12 otherwise deemed admissible pursuant to this subsection, are
1 13 only inadmissible if they comply with section 232.47A.
1 14 Sec. 3. NEW SECTION. 232.47A RECORDING A CRIMINAL
1 15 INTERROGATION.
1 16 1. As used in this section:
1 17 a. "Accused juvenile" means any juvenile suspected by a
1 18 peace officer of committing a crime.
1 19 b. "Electronic recording" means a motion picture,
1 20 audiotape, videotape, or digital recording.
1 21 c. "Interrogation" means any interrogation that takes
1 22 place when a reasonable juvenile would consider the reasonable
1 23 juvenile's self to be in custody and a question is asked that
1 24 is reasonably likely to elicit an incriminating response.
1 25 d. "Place of detention" means a building that is a place
1 26 of operation for a city police department, county sheriff, or
1 27 other law enforcement agency, or is a place where a juvenile
1 28 may be held in detention and questioned in connection with a
1 29 delinquent act.
1 30 2. An oral, written, or sign language statement of an
1 31 accused juvenile made as a result of an interrogation at a
1 32 place of detention shall be presumed to be inadmissible
1 33 against the accused juvenile in any juvenile or criminal
1 34 proceeding unless an electronic recording of the interrogation
1 35 is made and the electronic recording is substantially accurate
2 1 and not intentionally altered.
2 2 3. If the court finds, by a preponderance of the evidence,
2 3 that the accused juvenile was subjected to an interrogation
2 4 not in accordance with this section, any statements made by
2 5 the accused juvenile during or following the nonrecorded or
2 6 improperly recorded custodial interrogation are presumed to be
2 7 inadmissible in any criminal proceeding against the accused
2 8 juvenile.
2 9 4. Except as otherwise provided by law, this section does
2 10 not preclude the admissibility of any of the following:
2 11 a. A statement made by the accused juvenile in open court.
2 12 b. A statement made during an interrogation that was not
2 13 electronically recorded because such a recording was not
2 14 feasible.
2 15 c. A voluntary statement, whether or not the result of an
2 16 interrogation.
2 17 d. A statement made during an interrogation by an accused
2 18 juvenile who, prior to making such a statement, asks that a

2 19 recording of the statement not be made.
2 20 e. A statement made during an interrogation that is made
2 21 out of state.
2 22 f. A statement made at a time the interrogators are
2 23 unaware that the crime has occurred.
2 24 g. A statement used for impeachment purposes.
2 25 h. Any other statement that may be admissible under any
2 26 other law.

2 27 5. The state shall bear the burden of proving beyond a
2 28 reasonable doubt that a statement not electronically recorded
2 29 in accordance with subsection 3 is admissible under subsection
2 30 4.

2 31 6. An electronic recording made under this section shall
2 32 be preserved until such time as all appeals have been
2 33 exhausted.

2 34 Sec. 4. NEW SECTION. 701.12 RECORDING A CRIMINAL
2 35 INTERROGATION.

3 1 1. As used in this section:

3 2 a. "Accused person" means any person suspected by a peace
3 3 officer of committing a crime.

3 4 b. "Electronic recording" means a motion picture,
3 5 audiotape, videotape, or digital recording.

3 6 c. "Interrogation" means any interrogation that takes
3 7 place when a reasonable person would consider the reasonable
3 8 person's self to be in custody and a question is asked that is
3 9 reasonably likely to elicit an incriminating response.

3 10 d. "Place of detention" means a building that is a place
3 11 of operation for a city police department, county sheriff, or
3 12 other law enforcement agency, or is a place where a person may
3 13 be held in detention and questioned in connection with a
3 14 criminal charge.

3 15 2. An oral, written, or sign language statement of an
3 16 accused person made as a result of an interrogation at a place
3 17 of detention shall be presumed to be inadmissible against the
3 18 accused person in any criminal proceeding unless an electronic
3 19 recording of the interrogation is made and the electronic
3 20 recording is substantially accurate and not intentionally
3 21 altered.

3 22 3. If the court finds, by a preponderance of the evidence,
3 23 that the accused person was subjected to an interrogation not
3 24 in accordance with this section, any statements made by the
3 25 accused person during or following the nonrecorded or
3 26 improperly recorded custodial interrogation are presumed to be
3 27 inadmissible in any criminal proceeding against the accused
3 28 person.

3 29 4. Except as otherwise provided by law, this section does
3 30 not preclude the admissibility of any of the following:

3 31 a. A statement made by the accused person in open court.

3 32 b. A statement made during a custodial interrogation that
3 33 was not electronically recorded because such a recording was
3 34 not feasible.

3 35 c. A voluntary statement, whether or not the result of a
4 1 custodial interrogation.

4 2 d. A statement made during a custodial interrogation by an
4 3 accused person who, prior to making such a statement, asks
4 4 that a recording of the statement not be made.

4 5 e. A statement made during a custodial interrogation that
4 6 is made out of state.

4 7 f. A statement made at a time the interrogators are
4 8 unaware that the crime has occurred.

4 9 g. A statement used for impeachment purposes.

4 10 h. Any other statement that may be admissible under any
4 11 other law.

4 12 5. The state shall bear the burden of proving beyond a
4 13 reasonable doubt that a statement not electronically recorded
4 14 in accordance with subsection 3 is admissible under subsection
4 15 4.

4 16 6. An electronic recording made under this section shall
4 17 be preserved until such time as all appeals have been
4 18 exhausted.

4 19 EXPLANATION

4 20 This bill relates to electronically recording an
4 21 interrogation of an adult or juvenile suspected of a crime.

4 22 The bill requires a peace officer to electronically record
4 23 an interrogation of an adult or a juvenile suspected of a
4 24 crime. Under the bill, if the interrogation is not recorded
4 25 and the adult or juvenile makes incriminating statements
4 26 during the interrogation, the statements are not admissible at
4 27 trial. The bill defines "electronic recording" to mean a
4 28 motion picture, audiotape, videotape, or digital recording.
4 29 The bill defines "interrogation" to mean any interrogation

4 30 that takes place when a reasonable person or juvenile would
4 31 consider himself or herself to be in custody and a question is
4 32 asked that is reasonably likely to elicit an incriminating
4 33 response.

4 34 The bill requires the electronic recording to be preserved
4 35 until such time as all appeals have been exhausted.

5 1 Except as otherwise provided by law, statements that are
5 2 not recorded are admissible under the bill under the following
5 3 circumstances: the statement is made in open court; the
5 4 statement is made during an interrogation that was not
5 5 recorded because such a recording was not feasible; a
5 6 voluntary statement; any statement if the accused asks that
5 7 the interrogation not be electronically recorded; a statement
5 8 made during an interrogation that is out of state; a statement
5 9 made to the interrogators who are unaware that the crime has
5 10 occurred; a statement used for impeachment purposes; and any
5 11 other statement that is admissible under any other law or
5 12 rule.

5 13 LSB 2813SC 82

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